

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JANE SULLIVAN and P. POES 1-75,
individually and on behalf of others similarly
situated,

No. 2:22-cv-0204-RAJ

Plaintiffs,

TEMPORARY RESTRAINING ORDER

V.

THE UNIVERSITY OF WASHINGTON, a Washington public corporation; ELIZA SAUNDERS, Director of Public Records and Open Public Meetings at the University of Washington, in their official capacity,

~~[PROPOSED]~~

Defendants,

and

PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS, INC., a
Virginia nonstock corporation,

Intervenor-Defendant.

This matter came before the Court on a motion by Plaintiff Jane Sullivan and Plaintiff P. Poe 1 (“Plaintiffs”), on behalf of themselves and all others similarly situated, for a Temporary Restraining Order against Defendants the University of Washington, and Eliza Saunders, Director

TEMPORARY RESTRAINING ORDER - 1
SULLIVAN ET AL. v. UNIVERSITY OF WASHINGTON ET AL.
NO. CV22-204-RAJ

**GOLDFARB & HUCK
ROTH RIOJAS, PLLC**
925 Fourth Avenue, Suite 3950
Seattle, Washington 98104
(206) 452-0260

1 of Public Records and Open Public Meetings at the University of Washington, in their official
2 capacity (the “University of Washington Defendants”).
3

4 The Court, having considered Plaintiffs’ Motion, all materials filed in support thereof, any
5 materials filed in opposition, and the pleadings and papers of record in this matter, hereby FINDS
6 as follows:
7

8 1. The University of Washington Defendants have received a request under
9 Washington’s Public Records Act, RCW 42.56, submitted by Intervenor-Defendant PETA, for the
10 disclosure of information relating to Plaintiffs’ appointments to the University of Washington’s
11 Institutional Animal Care and Use Committee (“IACUC”), namely, Public Records Request
12 PR_2021_000141 (Jones-Engel) (the “Public Records Request”).
13

14 2. The Public Records Request seeks disclosure “from January 1, 2014, to the
15 present,” of “all of the Institutional Animal Care and Use Committee appointment letters that
16 institutional officials have created or produced” (the “Appointment Letters”).
17

18 3. The University of Washington Defendants have notified at least some of Plaintiffs
19 and those similarly situated that, unless restrained by a court order or other judicial prohibition,
20 they believe the Public Records Act likely requires them to release the records at issue in response
21 to PETA’s PRA request.
22

23 4. Communications by Defendants relating to the Public Records Request also contain
24 personally identifying information of Plaintiffs that identify them as associated with the IACUC.
25

26 5. On April 26, 2022, this Court issued a Preliminary Injunction in this matter (Dkt
#38).
27

28 6. PETA undertook an interlocutory appeal from this Court’s injunction order, and the
29 Ninth Circuit issued an opinion on February 17, 2023, reversing the injunction. Plaintiffs filed a
30 joint Petition for Rehearing/Rehearing En Banc, which the Court of Appeals denied on Wednesday,
31 March 29, 2023 (Dkt #67). Accordingly, the parties expect the Court of Appeals’ mandate to issue
32 on Wednesday, April 5, 2023.
33

1 7. PETA's Motion to Dismiss Plaintiffs' Second Amended Complaint is currently
2 pending.

3 8. Plaintiffs state their intent to shortly file a Motion to Modify Injunction / Motion
4 for Preliminary Injunction, noted for April 28, 2023, based upon the following causes of action
5 from Plaintiffs' Second Amended Complaint:

- 6 a. Plaintiffs' claim that the records at issue are exempt from disclosure under
7 Washington's Public Records act through RCW 4.24.580, an anti-harassment
8 statute that constitutes an "other statute" exemption from PRA disclosure; and
9 b. Plaintiffs' claim that the disclosure of their personally identifying information
10 would violate their rights of personal security and bodily integrity under the
11 Constitutions of Washington and the United States.

12 9. Plaintiffs have given Defendants, through their counsel, notice of their intent to seek
13 this Temporary Restraining Order.

14 10. PETA does not concede the Court has subject-matter jurisdiction to enter this TRO,
15 or that Plaintiffs have met the requirements for issuance of a TRO on the merits.

16 11. PETA does not oppose the issuance of a TRO that expires no later than May 3,
17 2023.

18 12. PETA will not seek Public Records Act penalties or fees from the University of
19 Washington while this Temporary Restraining Order remains in effect, in this matter or any
20 separate one, with respect to records covered by the Temporary Restraining Order, in response to
21 any pending public records request.

22 13. The University of Washington Defendants do not concede the Court has subject-
23 matter jurisdiction to enter this TRO, or that Plaintiffs have met the requirements for issuance of a
24 TRO on the merits.

25 14. The University of Washington Defendants do not oppose the issuance of this TRO.
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1 15. If the documents and information at issue were to be released on or about April 5,
2 2023, due to the issuance of the Ninth Circuit's mandate, it would irreparably harm Plaintiffs and
3 eliminate any possibility of their requested relief, before this Court has an opportunity to decide on
4 the merits the issues raised by PETA's Motion to Dismiss Plaintiffs' Second Amended Complaint
5 and by Plaintiffs' Motion to Modify Injunction / Motion for Preliminary Injunction, based on
6 Plaintiffs' Second Amended Complaint.

7 16. The materials submitted by Plaintiffs and declarants on their behalf in this matter
8 establish that Plaintiffs and members of the putative class, due to their association with the IACUC,
9 face a substantial and ongoing threat of harassment by members of the public who are opposed to
10 animal research.

11 17. Plaintiffs provide evidence sufficient to conclude, for purposes of this motion, that
12 harassment directed at Plaintiffs and members of the putative class, based on their association with
13 the IACUC, likely will increase if they are publicly identified as associated with the IACUC, due
14 to the disclosure of their personally identifying information.

15 18. Plaintiffs include employees of a research or educational facility involved in animal
16 research.

18 Based on the foregoing findings, the Court CONCLUDES as follows:

20 19. This Court has jurisdiction and venue over the subject matter and over Defendants.
21 20. The harassment likely to be directed at Plaintiffs and putative class members, if their
22 personally identifying information were to be disclosed, is potentially sufficient to satisfy the terms
23 of RCW 4.24.580, making the relevant records exempt from disclosure under Washington's Public
24 Records Act, RCW 42.56.070(1), and RCW 42.56.540.

25 21. The harassment likely to be directed at Plaintiffs and putative class members, if their
26 personally identifying information were to be disclosed, is potentially sufficient to violate

1 Plaintiffs' rights of personal security and bodily integrity under the Constitutions of Washington
2 and the United States.

3 22. Release of the personally identifying information of Plaintiffs and putative class
4 members prior to the Court's ruling on the merits of PETA's Motion to Dismiss Plaintiffs' Second
5 Amended Complaint and Plaintiffs' Motion to Modify Injunction / Motion for Preliminary
6 Injunction would not be in the public interest and would substantially and irreparably damage
7 Plaintiffs, putative class members, and the IACUC.

8 23. Under the Ninth Circuit's sliding scale approach, Plaintiffs demonstrate "serious
9 questions going to the merits" of their claims "and the balance of hardships tips sharply in [their]
10 favor." *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

11 24. Defendants received adequate notice of Plaintiffs' Motion for Temporary
12 Restraining Order.

13 25. A Temporary Restraining Order against the University of Washington Defendants
14 is warranted to preserve the status quo, pending a hearing on whether to enter a preliminary and
15 permanent injunction.

16 26. No bond is necessary to protect the rights of Defendants.

18 The Court therefore ORDERS:

20 27. Plaintiffs' Motion for a Temporary Restraining Order is GRANTED.

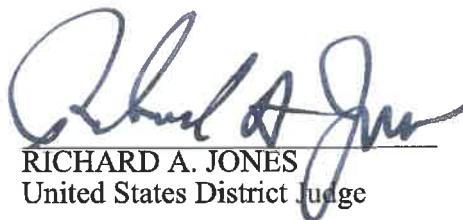
21 28. Pending further order of this Court, the University of Washington Defendants are
22 enjoined from disclosing the personally identifying information of Plaintiffs and putative class
23 members, specifically, any current or former member or alternate member of the IACUC, in
24 response or in relation to any request under Washington's Public Records Act, whether in
25 Appointment Letters, in communications relating to the Public Records Request, or otherwise, to
26

1 the extent such disclosure would identify any such individual as associated with the IACUC, on
2 the same terms as the Court's prior preliminary injunction order (Dkt #38).

3 29. This Temporary Restraining Order shall remain in effect until May 3, 2023, or until
4 further order of this Court, whichever is sooner.

5 30. The bond requirement of Fed. R. Civ. P. 65(c) is inapplicable and is hereby
6 WAIVED.

7
8 DATED this 4/4/23 day of April, 2023.

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12 
13 RICHARD A. JONES
14 United States District Judge

15 Presented by:

16 **Goldfarb & Huck Roth Riojas, PLLC**

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2 Approved as to form:

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s/ Jessica Creighton
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